

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 136

(2) Retain or change the facility's single bed election for use in calculating capacity days under Section 15.110; and

(3) Establish capacity days based on the number of beds immediately prior to the layaway and the number of beds after the layaway.

C. The Department will increase the facility's property payment rate by the incremental increase in the rental per diem resulting from the recalculation of the facility's rental per diem applying only the changes resulting from the layaway of beds and subitems (1), (2), and (3). If a facility reimbursed under Section 21.000 completes a moratorium exception project after its base year, the base year property rate is the moratorium project property rate. The base year rate is inflated by the factors in Section 21.060, items C through F. The property payment rate increase is effective the first day of the month following the month in which the layaway of the beds becomes effective.

D. If a nursing facility removes a bed from layaway status in accordance with state law, the Department will establish capacity days based on the number of licensed and certified beds in the facility not on layaway and will reduce the nursing facility's property payment rate in accordance with item B.

E. For the rate years beginning on or after July 1, 2000, notwithstanding any provision to the contrary under Section 21.000, a nursing facility reimbursed under that section, with delicensed beds after July 1, 2000, by giving notice of the delicensure to the Department of Health according to the notice requirements in state law, is allowed to:

(1) Aggregate the applicable investment per bed limits based on the number of beds licensed immediately prior to entering the alternative payment system;

(2) Retain or change the facility's single bed election for use in calculating capacity days under Section 15.110; and

(3) Establish capacity days based on the number of beds immediately prior to the delicensure and the number of beds after the delicensure.

The Department will increase the facility's property payment rate by the incremental increase in the rental per diem resulting from the recalculation of the facility's rental per diem applying only the changes resulting from the delicensure of beds and subitems (1), (2), and (3). If a facility reimbursed under Section 21.000 completes a moratorium exception project after its

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 137

base year, the base year property rate is the moratorium project property rate. The base year rate is inflated by the factors in Section 21.060, items C through F. The property payment rate increase is effective the first day of the month following the month in which the delicensure of the beds becomes effective.

F. For nursing facilities reimbursed pursuant to Sections 1.000 to 20.000 or Section 21.000, any beds placed on layaway are not included in calculating facility occupancy as it pertains to leave days.

G. For nursing facilities reimbursed pursuant to Sections 1.000 to 20.000 or Section 21.000, the rental rate calculated after placing beds on layaway may not be less than the rental rate prior to placing beds on layaway.

H. A nursing facility receiving a rate adjustment as a result of this section must not increase nursing facility rates for private pay residents until it notifies the residents, or the persons responsible for payment of the increase, in writing 30 days before the increase takes effect. No notice is required if a rate increase reflects a necessary change in a resident's level of care.

I. A facility that does not utilize the space made available as a result of bed layaway or delicensure under this section to reduce the number of beds per room or provide more common space for nursing facility uses or perform other activities related to the operation of the nursing facility shall have its property rate increase calculated under this section reduced by the ratio of the square footage made available that is not used for these purposes to the total square footage made available as a result of bed layaway or delicensure.

SECTION 20.000 ANCILLARY SERVICES

SECTION 20.010 Setting payment and monitoring use of therapy services. At the option of the nursing facility, payment for ancillary materials and services otherwise covered under the plan may be made to either the nursing facility in the operating cost per diem, to the vendor of ancillary services, or to the nursing facility outside of the operating cost per diem. The avoidance of double payments shall be made through audits and adjustments to the nursing facility's annual cost report. The Department will also determine if the materials and services are cost effective and as would be incurred by a prudent and cost-conscious buyer. Therapy services provided to a recipient must be medically necessary and appropriate to the medical condition of the recipient. If the vendor, nursing facility, or ordering physician cannot provide

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 138

adequate medical necessity justification, the Department may recover or disallow the payment for the services and may require prior authorization for therapy services or may impose administrative sanctions to limit the provider participation in the medical assistance program.

SECTION 20.020 Certification that treatment is appropriate. The therapist who provides or supervises the provision of therapy services must certify in writing that the therapy's nature, scope, duration, and intensity are appropriate to the medical condition of the recipient every 30 days. The Department shall utilize a peer review program to make recommendations regarding the medical necessity of services provided.

SECTION 20.030 Separate billings for therapy services. Nursing facilities shall be subject to the following requirements:

A. The invoice must include the provider number of the nursing facility where the medical assistance recipient resides regardless of the service setting.

B. Nursing facilities that are related by ownership, control, affiliation, or employment status to the vendor of therapy services shall report the revenues received during the reporting year for therapy services provided to residents of the nursing facility. For rate years beginning on or after July 1, 1988, the Department shall offset the revenues received during the reporting year for therapy services provided to the total payment rate of the nursing facility by dividing the amount of offset by the nursing facility's actual resident days. Except as specified in items D and F below, the amount of offset shall be the revenue in excess of 108 percent of the cost removed from the cost report resulting from the requirement of the Department to ensure the avoidance of double payments. In establishing a new base period for the purpose of setting operating cost payment rate limits and rates, the revenues offset shall not be included.

C. For rate years beginning on or after July 1, 1987, nursing facilities shall limit charges in total to vendors of therapy services for renting space, equipment, or obtaining other services during the rate year to 108 percent of the annualized cost removed from the reporting year cost report resulting from the requirement to ensure the avoidance of double payments. If the arrangement for therapy services is changed so that a nursing facility is subject to this paragraph instead of item B, the cost that is used to determine rent must be adjusted to exclude the annualized costs for therapy services that are not provided in the rate year. The maximum charges to the vendors shall be based on the Department's determination of annualized cost and may be subsequently adjusted upon resolution of appeals. After June 30, 1993, property costs excluded from the nursing facility's property related payment rate shall be determined based on the ratio of service area square footage times the nursing facility's property related payment

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 139

rate. Nursing facilities that are reimbursed according to Section 21.000 and are located in a county participating in the state's §1115 prepaid medical assistance waiver program are exempt from the maximum therapy rent revenue provisions of this item.

D. The Department shall require reporting of all revenues relating to the provision of ~~therapy services and shall establish a therapy cost to revenue ratio for the reporting year ending~~ in 1986. For subsequent reporting years, the ratio may increase five percentage points in total until a new base year is established. Increases in excess of five percentage points may be allowed if adequate justification is provided to and accepted by the Department. Unless an exception is allowed the amount of offset in item B is the greater of the amount determined in item B or the amount of offset that is imputed based on one minus the lesser of: (1) the actual reporting year ratio; or (2) the base reporting year ratio increased by five percentage points, multiplied by the revenues.

E. A new reporting year base for determining the cost to revenue ratio may be established.

F. If the arrangement for therapy services is changed so that a nursing facility is subject to the provisions of item B instead of item C, an average cost to revenue ratio based on the ratios of nursing facilities that are subject to the provisions of item B shall be imputed for item D.

G. This section does not allow unrelated nursing facilities to reorganize related organization therapy services and provide services among themselves to avoid offsetting revenues. Nursing facilities that are found to be in violation of this provision shall be subject for treble civil damages on that portion of the fee in excess of that allowed. Damages awarded must include three times the excess payments together with cost and disbursements including reasonable attorney's fees or their equivalent.

H. Section 20.030 does not apply to nursing facilities that are reimbursed according to Section 21.000 and are located in a county participating in the State's §1115a prepaid medical assistance waiver program.

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 140

SECTION 21.000 CONTRACTUAL ALTERNATIVE PAYMENT RATES AFTER AUGUST 1, 1995

SECTION 21.010 Contractual alternative payment rate. A nursing facility may apply to be paid a contractual alternative payment rate instead of the cost-based payment rate established under Sections 1.000 to 20.000. A nursing facility selected to receive an alternative payment rate must enter into a contract with the state. Payment rates and procedures for facilities selected to receive an alternative payment rate are determined and governed by this section and by the terms of the contract. Different contract terms for different nursing facilities may be negotiated.

SECTION 21.020 Requests for proposals.

A. At least twice annually the Department will publish a request for proposals to provide nursing facility services according to this section. All proposals must be responded to in a timely manner.

B. Any proposal may be rejected if, in the judgment of the Department, a contract with a particular facility is not in the best interests of the residents of the facility or the state of Minnesota.

SECTION 21.030 Proposal requirements.

A. In issuing the request for proposals, the Department may develop reasonable requirements which, in the judgment of the Department, are necessary to protect residents or ensure that the contractual alternative payment demonstration project furthers the interest of the state of Minnesota.

B. The request for proposals may include, but need not be limited to, the following:

(1) A requirement that a nursing facility make reasonable efforts to maximize Medicare payments on behalf of eligible residents;

(2) Requirements designed to prevent inappropriate or illegal discrimination against residents enrolled in the medical assistance program as compared to private paying residents;

(3) Requirements designed to ensure that admissions to a nursing facility are appropriate and that reasonable efforts are made to place residents in home and

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 141

community-based settings when appropriate;

(4) A requirement to agree to participate in a project to develop data collection systems and outcome-based standards for managed care contracting for long-term care services;

(5) A requirement that contractors agree to maintain Medicare cost reports and to submit them to the Department upon request or at times specified by the Department;

(6) A requirement for demonstrated willingness and ability to develop and maintain data collection and retrieval systems to be used in measuring outcomes; and

(7) A requirement to provide all information and assurances required by the terms and conditions of federal approval.

SECTION 21.040 Selection process.

A. The number of proposals that can be adequately supported with available state resources, as determined by the Department, may be accepted.

B. The Department may accept proposals from a single nursing facility or from a group of facilities through a managing entity.

C. The Department will seek to ensure that nursing facilities under contract are located in all geographic areas of the state.

D. In addition to the information and assurances contained in the submitted proposals, the Department may consider the following in determining whether to accept or deny a proposal:

(1) The facility's history of compliance with federal and state laws and rules, except that a facility deemed by the Department to be in substantial compliance with federal and state laws and rules is eligible to respond to a request for proposal. A facility's compliance history is not the sole determining factor in situations where the facility has been sold and the new owners have submitted a proposal;

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 142

(2) Whether the facility has a record of excessive licensure fines or sanctions or fraudulent cost reports;

(3) The facility's financial history and solvency; and

(4) Other factors identified by the Department that it deems relevant to a determination that a contract with a particular facility is not in the best interests of the residents of the facility or the state of Minnesota.

E. If the Department rejects the proposal of a nursing facility, it will provide written notice to the facility of the reason for the rejection, including the factors and evidence upon which the rejection was based.

SECTION 21.050 Duration and termination of contracts.

A. Contracts with nursing facilities may be executed beginning November 1, 1995.

B. All contracts entered into under this section are for a term of one year.

C. Either party may terminate a contract at any time without cause by providing ~~30~~ 90 calendar days advance written notice to the other party. The decision to terminate a contract is not appealable.

D. The contract will be renegotiated for additional one-year terms, unless either party provides written notice of termination. The provisions of the contract will be renegotiated annually by the parties before the expiration date of the contract.

E. The parties may voluntarily renegotiate the terms of the contract at any time by mutual agreement.

F. If a nursing facility fails to comply with the terms of a contract, the Department will provide reasonable notice regarding the breach of contract and a reasonable opportunity for the facility to come into compliance.

G. If the facility fails to come into compliance or to remain in compliance, the Department may terminate the contract. If a contract is terminated, the contract payment remains in effect for the remainder of the rate year in which the contract was terminated, but in all other respects the provisions of this section do not apply to that facility effective as of the

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 143

date the contract is terminated.

H. The contract must contain a provision governing the transition back to the cost-based reimbursement system established under Sections 1.000 to 20.000.

SECTION 21.060 Alternative rates for nursing facilities.

For nursing facilities that have their payment rates determined pursuant to this section rather pursuant to Sections 1.000 to 20.000, a rate must be established under this section as follows:

- A. The nursing facility must enter into a written contract with the Department;
- B. A nursing facility's case mix payment rate for the first rate year of a facility's contract under this section is the same payment rate as established for the facility under Sections 1.000 to 20.000;
- C. A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment as provided in items D and E.
- D. The index for the inflation adjustment must be based on the change in the Consumer Price Index-All Items (United States City average) (CPI-U) forecasted by Data Resources, Inc., as forecasted in the fourth quarter of the calendar year preceding the rate year.
- E. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined.
- F. For the rate years beginning July 1, 1999 and July 1, 2000, items C, D, and E apply only to the property related payment rate. In determining the amount of the property related payment rate adjustment under items C, D and E, the Department must determine the proportion of the nursing facility's rates that are property related based on the facility's most recent cost report.

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 144

SECTION 21.065 Facility rate increases beginning July 1, 1999. For the rate year beginning July 1, 1999, a nursing facility's case mix rate is divided into the following components: compensation operating rate, non-compensation operating rate, property rate and other-components rate. The compensation and non-compensation operating rates are increased by the percentages in Section 11.049, item B, subitem (1), respectively. The property related payment rate is increased as described in Section 21.060, item F. The other-components rate is not increased from the June 30, 1999 rate.

A. A nursing facility in Becker county licensed for 102 beds on September 30, 1998 receives the following increases:

- (1) \$1.30 in its case mix class A payment rate;
- (2) \$1.33 in its case mix class B payment rate;
- (3) \$1.36 in its case mix class C payment rate;
- (4) \$1.39 in its case mix class D payment rate;
- (5) \$1.42 in its case mix class E and F payment rate;
- (6) \$1.45 in its case mix class G payment rate;
- (7) \$1.49 in its case mix class H payment rate;
- (8) \$1.51 in its case mix class I payment rate;
- (9) \$1.54 in its case mix class J payment rate; and
- (10) \$1.59 in its case mix class K payment rate;

B. A nursing facility in Chisago county licensed for 101 beds on September 30, 1998 receives an increase of \$3.67 in each case mix payment rate:

C. A nursing facility in Canby, licensed for 75 beds will have its property-related per diem rate increased by \$1.21. This increase will be recognized in the facility's contract payment rate under this section.

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 145

D. A nursing facility in Golden Valley with all its beds licensed to provide residential rehabilitative services to physically handicapped young adults has the payment rate computed according to this section increased by \$14.83; and

E. A county-owned 130-bed nursing facility in Park Rapids has its per diem contract payment rate increased by \$1.02 for costs related to compliance with comparable worth requirements.

SECTION 21.066 Facility rate increases beginning July 1, 2000. For the rate year beginning July 1, 2000, nursing facilities with an average operating rate as described in items A through F receive the rate increases indicated. "Average operating rate" means the average of the eleven (A-K) case mix operating rates. The increases are added following the determination under Section 11.050 of the payment rate for the rate year beginning July 1, 2000, and will be included in the nursing facilities' total payment rates for the purposes of determining future rates under this attachment to the State plan.

A. Nursing facilities with an average operating rate of \$110.769 receive an operating cost per diem increase of 5.9 percent, provided that the facilities delicense, decertify, or place on layaway status, if that status is otherwise permitted by law, 70 beds.

B. Nursing facilities with an average operating rate of \$79.107 receive an increase of \$1.54 in each case mix payment rate.

C. Nursing facilities with an average operating rate of \$80.267 receive an increase in their case mix resident class A payment of \$3.78, and an increase in their payment rate for all other case mix classes of that amount multiplied by the class weight for that case mix class established in Section 13.030.

D. Nursing facilities with an average operating rate of \$94.987 receive an increase of \$2.03 in each case mix payment rate to be used for employee wage and benefit enhancements.

E. Nursing facilities with an average operating rate of \$82.369 have their operating cost per diem increased by the following amounts:

(1) case mix class A, \$1.16;

(2) case mix class B, \$1.50;

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 146

-
- (3) case mix class C, \$1.89;
 - (4) case mix class D, \$2.26;
 - (5) case mix class E, \$2.63;
 - (6) case mix class F, \$2.65;
 - (7) case mix class G, \$2.96;
 - (8) case mix class H, \$3.55;
 - (9) case mix class I, \$3.76;
 - (10) case mix class J, \$4.08; and
 - (11) case mix class K, \$4.76.

F. Nursing facilities with an average operating rate of \$95.974 that decertified 22 beds in calendar year 1999 have their property-related per diem payment rate increased by \$1.59.

SECTION 21.070 Contract payment rates; appeals. If a provider appeal is pending concerning the cost-based payment rates that are the basis for the calculation of the payment rate under the contractual alternative payment methodology, the Department and the nursing facility may agree on an interim contract rate to be used until the appeal is resolved. When the appeal is resolved, the contract rate must be adjusted retroactively in accordance with the appeal decision.

SECTION 21.080 Exemptions. To the extent permitted by federal law:

A. Nursing facilities that are Medicare certified and filing a Medicare cost report and have entered into a contract under this section are not required to file a cost report as described in Section 2.000 for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment contract. Nursing facilities that are not Medicare certified and are not filing a Medicare cost report must file a cost report as described in Section 2.000.

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 148

SECTION 21.090 Consumer protection.

A. As a condition of entering into a contract under this section, a nursing facility must agree to establish resident grievance procedures that are similar to those required under state law.

B. The nursing facility may also be required to establish expedited grievance procedures to resolve complaints made by short-stay residents.

C. The facility must notify its resident council of its intent to enter into a contract and must consult with the council regarding any changes in operation expected as a result of the contract.

SECTION 21.100 Contracts are voluntary.

A. Election by a nursing facility of the contractual alternative payment rate is voluntary.

B. The terms and procedures governing the alternative payment rates are determined under Section 21.000 and through negotiations between the Department and nursing facilities that have submitted a letter of intent to elect the alternative payment rate.

C. For purposes of developing requests for proposals and contract requirements, and negotiating the terms, conditions, and requirements of contracts, the Department is exempt from state rulemaking requirements.

SECTION 21.110 Federal requirements. The Department will implement the contractual alternative payment methodology subject to any required federal approvals, and in a manner that is consistent with federal requirements. If a provision of this section is inconsistent with a federal requirement, the federal requirement supersedes the inconsistent provision. The Department will seek federal approval and request waivers as necessary to implement this section.

SECTION 21.120 Salary adjustments. Effective July 1, 1998, and ending June 30, 2001 if the performance-based contracting payment system is not implemented until July 1, 2001, the Department will make available the appropriate salary adjustment per diem calculated in Section 11.055 to the total operating cost payment rate of each nursing facility subject to payment under this section.